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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/899,962

07/06/2001

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CIS0122US

4375

33031 7590 09/29/2011  
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EXAMINER

TRAN, NGHI V

ART UNIT

PAPER NUMBER

2451

MAIL DATE

DELIVERY MODE

09/29/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/899,962	SALEH ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	NGHI TRAN	2451	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 June 2011.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 5) ☒ Claim(s) 2-4, 6, 7 and 46-68 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 2-4, 6, 7, and 46-68 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____.                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                          |

### **DETAILED ACTION**

1. This office action is in response to the amendment filed on June 28, 2011. Claims 2, 3, 4, 6, 7, and 46 have been amended. Claims 1, 5 and 8-45 have been canceled. Claims 47-48 have been added. Therefore, claims 2-4, 6-7 and 46-68 are presented for further examination.

#### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 62-68 are rejected under 35 U.S.C. 101 because the claimed invention is directed to nonstatutory subject matter. The claim is drawn to a “a tangible computer-readable storage medium” comprising stored data. The specification exemplifies the readable medium as including transmission or communication medium such as “electronic signals” [see page 19, line 15]. Thus, the claim as a whole covers a transitory signal, which does not fall within the definition of a process, machine, manufacture, or composition of matter (see, e.g., *In re Nuijten*, Fed. Cir. Sept. 20, 2007) (slip. Op. at 18) (“A transitory, propagating signal ... is not a process, machine, manufacture, or composition of matter. Thus, such a signal cannot be patentable subject matter.”)

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-4, 6-7 and 46-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iwata, U.S. Patent No. 6,026,077 (hereinafter Iwata), in view of Takatama et al., US Publication No. 2001/0034853 (hereinafter Takatama).

6. With respect to claims 46, 48, 62, and 55, Iwata teaches a method for restoring a path in a communication system between zones [see abstract and fig.1] comprising:

- establishing an inter-zone link between a first border node (**A**) of a source zone [= sub-networks, **701** and/or peer group, **PG-A**] and a second border node (**D**) of a destination zone [= sub-networks, **704**] [fig.1];
- identifying an inter-zone link failure between the source zone and the destination zone [col.10, ln.66 - col.11, ln.27 and col.12, lns.40-62];
- identifying a pre-planned alternative route between the source zone and the destination zone [i.e. previously determine an alternate path, see abstract and fig.1];
- informing a node in the destination zone of alternative route [fig.1];
- informing a node in the source zone of alternative route [fig.1]; and

- providing communication between the destination zone and the source zone via the preplanned alternative route [fig.4].

However, Iwata does not explicitly show wherein the source zone and the destination zone execute separate copies of a topology distribution algorithm.

In a method for restoring a path, Takatama discloses wherein the source zone and the destination zone execute separate copies of a topology distribution algorithm [= a link state database, i.e. a topology distribution algorithm, provided in the entry node is updated, i.e. separate copies, by an autonomous exchange of messages between nodes, paragraphs 0009, 0040-0044, 0060-0062, 0066, and 0011].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Iwata in view of Takatama by executing separate copies of a topology distribution algorithm because this feature does not reflect the actual link states at the timing of connection setup [Takatama, paragraph 0009]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated to modify in order to dynamically calculate an alternate route for failure recovery when a failure notification is received [Takatama, see abstract].

7. With respect to claims 2, 49, 53, and 63, Iwata further suggests routing the pre-planned alternative route through a transit zone [fig.1].

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8. With respect to claim claims 3, 6, 50-51, 57-58, 64-65, Iwata further teaches requesting new paths to be established between zones [i.e. setting up the alternate path, see abstract].

7. With respect to claims 4, 7, 47, 52-54, 59-61, and 66-68, Iwata does not explicitly show the pre-planned alternative route is configured based on class of service requirements.

In a method for restoring a path, Takatama discloses the pre-planned alternative route is configured based on class of service requirements [paragraphs 0019-0025].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Iwata in view of Takatama by configuring based on class of service requirements because this feature does not reflect the acture link states at the timing of connection setup [Takatama, paragraph 0009]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated to modify in order to dynamically calculate an alternate route for failure recovery when a failure notification is received [Takatama, see abstract].

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 2-4, 6-7 and 46-68 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nghi V. Tran whose telephone number is (571) 272-4067. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/John Follansbee/

Supervisory Patent Examiner, Art Unit 2451